

SEP 14 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUTHHELLA R. WHITE,

Plaintiff - Appellant,

v.

VOCATIONAL REHABILITATION
SERVICES ADMINISTRATION, a
division of the Oregon Department of
Human Services,

Defendant - Appellee.

No. 05-35439

D.C. No. CV-04-00842

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Malcolm F. Marsh, District Judge, Presiding

Submitted September 11, 2006^{**}

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Ruththella R. White appeals pro se from the district court’s judgment dismissing her action alleging that a decision of the Oregon Vocational Rehabilitation Services (the “agency”) was unlawful in various respects. We have jurisdiction pursuant to 28 U.S.C. § 1291. After de novo review, *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003), we affirm.

The district court correctly concluded that it lacked jurisdiction to consider White’s action because the relief White sought would require review of the state court judgment affirming the agency’s administrative decision. *See id.* at 1158. White’s action was thus a de facto appeal of the state court proceeding, and the district court was required to “refuse to decide any issue raised in the suit that is ‘inextricably intertwined’ with an issue resolved by the state court.” *Id.* We reject White’s contention that the agency’s failure to notify her that she could also bring an action in federal court under 29 U.S.C. § 722(c)(5)(J) provided a basis for the district court to exercise jurisdiction over a matter already decided by the state court.

White’s remaining contentions are also unpersuasive.

AFFIRMED.